

107TH CONGRESS  
1ST SESSION

# H. R. 3150

To improve aviation security, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 17, 2001

Mr. YOUNG of Alaska (for himself, Mr. MICA, Mr. PETRI, Mr. COBLE, Mr. DUNCAN, Mr. GILCHREST, Mr. HORN, Mr. EHLERS, Mr. BACHUS, Mr. LATOURETTE, Mr. BAKER, Mr. NEY, Mr. COOKSEY, Mr. THUNE, Mr. LOBIONDO, Mr. MORAN of Kansas, Mr. POMBO, Mr. DEMINT, Mr. ISAKSON, Mr. HAYES, Mr. SIMMONS, Mr. BROWN of South Carolina, Mr. JOHNSON of Illinois, Mr. OTTER, Mr. CULBERSON, Mr. SHUSTER, Mr. ROGERS of Michigan, Mr. BEREUTER, Mr. REHBERG, and Mr. CAPITO) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Budget, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To improve aviation security, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; AMENDMENTS TO TITLE 49,**  
4 **UNITED STATES CODE; TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the  
6 “Secure Transportation for America Act of 2001”.

1 (b) AMENDMENTS TO TITLE 49, UNITED STATES  
 2 CODE.—Except as otherwise specifically provided, when-  
 3 ever in this Act an amendment or repeal is expressed in  
 4 terms of an amendment to, or repeal of, a section or other  
 5 provision of law, the reference shall be considered to be  
 6 made to a section or other provision of title 49, United  
 7 States Code.

8 (c) TABLE OF CONTENTS.—

- Sec. 1. Short title; amendments to title 49, United States Code; table of contents.
- Sec. 2. Transportation Security Administration.
- Sec. 3. Screening of passengers and property.
- Sec. 4. Security programs.
- Sec. 5. Employment standards and training.
- Sec. 6. Deployment of Federal air marshals.
- Sec. 7. Enhanced security measures.
- Sec. 8. Criminal history record check for screeners and others.
- Sec. 9. Passenger and baggage screening fee.
- Sec. 10. Authorizations of appropriations.
- Sec. 11. Limitation on liability for acts to thwart criminal violence or aircraft piracy.
- Sec. 12. Passenger manifests.
- Sec. 13. Transportation security oversight board.
- Sec. 14. Airport improvement programs.
- Sec. 15. Technical correction.
- Sec. 16. Alcohol and controlled substance testing.
- Sec. 17. Conforming amendments to subtitle VII.
- Sec. 18. Savings provision.
- Sec. 19. Budget submissions.
- Sec. 20. Aircraft operations in enhanced class B airspace.
- Sec. 21. Waivers for certain isolated communities.
- Sec. 22. Assessments of threats to airports.

9 **SEC. 2. TRANSPORTATION SECURITY ADMINISTRATION.**

10 (a) IN GENERAL.—Chapter 1 is amended by adding  
 11 at the end the following:

1 **“§ 114. Transportation Security Administration**

2 “(a) IN GENERAL.—The Transportation Security  
3 Administration shall be an administration of the Depart-  
4 ment of Transportation.

5 “(b) UNDER SECRETARY.—

6 “(1) APPOINTMENT.—The head of the Adminis-  
7 tration shall be the Under Secretary of Transpor-  
8 tation for Security. The Under Secretary shall be  
9 appointed by the President, by and with the advice  
10 and consent of the Senate.

11 “(2) QUALIFICATIONS.—The Under Secretary  
12 must—

13 “(A) be a citizen of the United States; and

14 “(B) have experience in a field directly re-  
15 lated to transportation or security.

16 “(3) TERM.—The term of office of an indi-  
17 vidual appointed as the Under Secretary shall be 5  
18 years.

19 “(c) LIMITATION ON PECUNIARY INTERESTS.—The  
20 Under Secretary may not have a pecuniary interest in, or  
21 own stock in or bonds of, a transportation or security en-  
22 terprise, or an enterprise that makes equipment that could  
23 be used for security purposes.

24 “(d) FUNCTIONS.—

1           “(1) IN GENERAL.—The Under Secretary shall  
2           be responsible for security in all modes of transpor-  
3           tation, including—

4                   “(A) carrying out chapter 449 relating to  
5                   civil aviation security; and

6                   “(B) security responsibilities over nonavia-  
7                   tion modes of transportation that are exercised  
8                   by Administrations of the Department of  
9                   Transportation (other than the Federal Avia-  
10                  tion Administration).

11           “(2) SCHEDULE FOR ASSUMPTION OF CIVIL  
12           AVIATION SECURITY FUNCTIONS.—Not later than 3  
13           months after the date of enactment of this section,  
14           the Under Secretary shall assume civil aviation secu-  
15           rity functions and responsibilities under chapter 449  
16           in accordance with a schedule to be developed by the  
17           Secretary of Transportation, in consultation with air  
18           carriers, foreign air carriers, and the Administrator  
19           of the Federal Aviation Administration. The Under  
20           Secretary shall publish an appropriate notice of the  
21           transfer of such security functions and responsibil-  
22           ities before assuming the functions and responsibil-  
23           ities.

24           “(3) ASSIGNMENT OF CONTRACTS.—Upon re-  
25           quest of the Under Secretary, an air carrier or for-

1       eign air carrier carrying out a screening or security  
2       function under chapter 449 may enter into an agree-  
3       ment with the Under Secretary to transfer any con-  
4       tract the carrier has entered into with respect to  
5       carrying out such function, before the Under Sec-  
6       retary assumes responsibility of such function.

7       “(e) ADDITIONAL DUTIES AND POWERS.—In addi-  
8       tion to carrying out the functions specified in subsection  
9       (d), the Under Secretary shall—

10               “(1) receive, assess, and distribute intelligence  
11       information related to transportation security;

12               “(2) assess threats to transportation;

13               “(3) develop policies, strategies, and plans for  
14       dealing with threats to transportation security;

15               “(4) make other plans related to transportation  
16       security, including coordinating countermeasures  
17       with appropriate departments, agencies, and instru-  
18       mentalities of the United States Government;

19               “(5) serve as the primary liaison for transpor-  
20       tation security to the intelligence and law enforce-  
21       ment communities;

22               “(6) supervise all airport security and screening  
23       services using Federal uniformed personnel;

24               “(7) on a day-to-day basis, manage and provide  
25       operational guidance to the field security resources

1 of the Administration, including Federal Security  
2 Managers as provided by section 44933;

3 “(8) enforce security-related regulations and re-  
4 quirements;

5 “(9) identify and undertake research and devel-  
6 opment activities necessary to enhance transpor-  
7 tation security;

8 “(10) inspect, maintain, and test security facili-  
9 ties, equipment, and systems;

10 “(11) ensure the adequacy of security measures  
11 for the transportation of cargo;

12 “(12) oversee the implementation, and ensure  
13 the adequacy, of security measures at airports and  
14 other transportation facilities;

15 “(13) perform background checks for airport  
16 security screening personnel, individuals with  
17 unescorted access to secure areas of airports, and  
18 other transportation security personnel;

19 “(14) develop standards for the hiring and re-  
20 tention of security screening personnel;

21 “(15) train and test security screening per-  
22 sonnel; and

23 “(16) carry out such other duties, and exercise  
24 such other powers, relating to transportation secu-

1        rity as the Under Secretary considers appropriate, to  
2        the extent authorized by law.

3        “(f) ACQUISITIONS.—

4                “(1) IN GENERAL.—The Under Secretary is  
5        authorized—

6                “(A) to acquire (by purchase, lease, con-  
7        demnation, or otherwise) such real property, or  
8        any interest therein, within and outside the con-  
9        tinental United States, as the Under Secretary  
10       considers necessary;

11               “(B) to acquire (by purchase, lease, con-  
12       demnation, or otherwise) and to construct, re-  
13       pair, operate, and maintain such personal prop-  
14       erty (including office space and patents), or any  
15       interest therein, within and outside the conti-  
16       nental United States, as the Under Secretary  
17       considers necessary;

18               “(C) to lease to others such real and per-  
19       sonal property and to provide by contract or  
20       otherwise for necessary facilities for the welfare  
21       of its employees and to acquire maintain and  
22       operate equipment for these facilities;

23               “(D) to acquire (by purchase, lease, con-  
24       demnation, or otherwise) and to construct, re-

1 pair, operate, and maintain research and test-  
2 ing sites and facilities; and

3 “(E) in cooperation with the Administrator  
4 of the Federal Aviation Administration, to uti-  
5 lize the research and development facilities of  
6 the Federal Aviation Administration located in  
7 Atlantic City, New Jersey.

8 “(2) TITLE.—Title to any property or interest  
9 therein acquired pursuant to this subsection shall be  
10 held by the Government of the United States.

11 “(g) TRANSFERS OF FUNDS.—The Under Secretary  
12 is authorized to accept transfers of unobligated balances  
13 and unexpended balances of funds appropriated to other  
14 Federal agencies (as such term is defined in section  
15 551(1) of title 5) to carry out functions transferred, on  
16 or after the date of enactment of this section, by law to  
17 the Under Secretary.

18 “(h) REGULATIONS.—

19 “(1) IN GENERAL.—The Under Secretary is au-  
20 thorized to issue, rescind, and revise such regula-  
21 tions as are necessary to carry out the functions of  
22 the Administration.

23 “(2) EMERGENCY PROCEDURES.—

24 “(A) IN GENERAL.—Notwithstanding any  
25 other provision of law or executive order (in-



cluding an executive order requiring a cost-benefit analysis) if the Under Secretary determines that a regulation or security directive must be issued immediately in order to protect transportation security, the Under Secretary shall issue the regulation or security directive without providing notice or an opportunity for comment and without prior approval of the Secretary.

“(B) REVIEW BY TRANSPORTATION SECURITY OVERSIGHT BOARD.—Any regulation or security directive issued under this paragraph shall be subject to disapproval by the Transportation Security Oversight Board established under section 44951. Any regulation or security directive issued under this paragraph shall remain effective until disapproved by the Board or rescinded by the Under Secretary.

“(i) PERSONNEL AND SERVICES; COOPERATION BY UNDER SECRETARY.—

“(1) AUTHORITY OF UNDER SECRETARY.—In carrying out the functions of the Administration, the Under Secretary shall have the same authority as is provided to the Administrator of the Federal Aviation Administration under subsections (l) and (m) of section 106.

1           “(2) AUTHORITY OF AGENCY HEADS.—The  
2       head of a Federal agency shall have the same au-  
3       thority to provide services, supplies, equipment, per-  
4       sonnel, and facilities to the Under Secretary as the  
5       head has to provide services, supplies, equipment,  
6       personnel, and facilities to the Administrator of the  
7       Federal Aviation Administration under section  
8       106(m).

9           “(j) PERSONNEL MANAGEMENT SYSTEM.—The per-  
10      sonnel management system established by the Adminis-  
11      trator of the Federal Aviation Administration under sec-  
12      tion 40122 shall apply to employees of the Transportation  
13      Security Administration, except that subject to the re-  
14      quirements of such section, the Under Secretary may  
15      make such modifications to the personnel management  
16      system with respect to such employees as the Under Sec-  
17      retary considers appropriate.

18          “(k) ACQUISITION MANAGEMENT SYSTEM.—The ac-  
19      quisition management system established by the Adminis-  
20      trator of the Federal Aviation Administration under sec-  
21      tion 40110 shall apply to acquisitions of equipment and  
22      materials by the Transportation Security Administration,  
23      except that subject to the requirements of such section,  
24      the Under Secretary may make such modifications to the  
25      acquisition management system with respect to such ac-

1 acquisitions of equipment and materials as the Under Sec-  
2 retary considers appropriate.

3 “(l) AUTHORITY OF INSPECTOR GENERAL.—The  
4 Transportation Security Administration shall be subject to  
5 the Inspector General Act of 1978 (5 U.S.C. App.) and  
6 other laws relating to the authority of the Inspector Gen-  
7 eral of the Department of Transportation.”.

8 (b) CONFORMING AMENDMENT.—The analysis for  
9 chapter 1 is amended by adding at the end the following:

“114. Transportation Security Administration.”.

10 (c) POSITION OF UNDER SECRETARY IN EXECUTIVE  
11 SCHEDULE.—Section 5313 of title 5, United States Code,  
12 is amended by adding at the end the following:

13 “The Under Secretary of Transportation for  
14 Security”.

15 (d) PERSONNEL OF OTHER AGENCIES.—The last  
16 sentence of section 106(m) is amended by inserting “per-  
17 sonnel and” before “supplies and equipment”.

18 (e) SECURITY AND RESEARCH AND DEVELOPMENT  
19 ACTIVITIES.—Section 40119 is amended—

20 (1) in subsection (a) by striking “Administrator  
21 of the Federal Aviation Administration” and insert-  
22 ing “Under Secretary of Transportation for Secu-  
23 rity”; and

1 (2) in subsections (b) and (c) by striking “Ad-  
2 ministrator” each place it appears and inserting  
3 “Under Secretary”.

4 (f) REFERENCES TO FAA IN CHAPTER 449.—Chap-  
5 ter 449 is amended—

6 (1) in section 44904(b)(5) by striking “the Ad-  
7 ministration” and inserting “the Transportation Se-  
8 curity Administration”;

9 (2) in the second sentence of section  
10 44913(a)(1) by striking “of the Administration” and  
11 inserting “of the Transportation Security Adminis-  
12 tration”;

13 (3) in section 44916(a)—

14 (A) in the first sentence by striking “Ad-  
15 ministrator” and inserting “Under Secretary of  
16 Transportation for Security”; and

17 (B) in the second sentence by striking  
18 “Administration” and inserting “Transporta-  
19 tion Security Administration”;

20 (4) in each of sections 44933(a) and 44934(b)  
21 by striking “Assistant Administrator for Civil Avia-  
22 tion Security” and inserting “Under Secretary”;

23 (5) in section 44934(b)(1) by striking “Assist-  
24 ant Administrator” and inserting “Under Sec-  
25 retary”;

1           (6) by striking sections 44931 and 44932 and  
2           the items relating to such sections in the analysis for  
3           such chapter;

4           (7) by striking “Administrator” each place it  
5           appears in such chapter (except in subsections (f)  
6           and (h) of section 44936) and inserting “Under Sec-  
7           retary”;

8           (8) by striking “Administrator’s” each place it  
9           appears in such chapter and inserting “Under Sec-  
10          retary’s”; and

11          (9) by striking “of the Federal Aviation Admin-  
12          istration” each place it appears in such chapter (ex-  
13          cept in section 44936(f)) and inserting “of Trans-  
14          portation for Security”.

15 **SEC. 3. SCREENING OF PASSENGERS AND PROPERTY.**

16          Section 44901 of such title is amended—

17           (1) in subsection (a) by striking “a weapon-de-  
18           tecting” and all that follows through the period at  
19           the end of the second sentence and inserting “per-  
20           sons and procedures acceptable to the Under Sec-  
21           retary (or the Administrator before responsibilities  
22           under this subsection are assumed by the Under  
23           Secretary).”; and

24           (2) by adding at the end the following:

1       “(d) ASSUMPTION OF SCREENING FUNCTION BY  
2 UNDER SECRETARY.—The responsibility for the screening  
3 of passengers and property on passenger aircraft in air  
4 transportation that originates in the United States or  
5 intrastate air transportation that, on the date of enact-  
6 ment of this subsection, was performed by an employee  
7 or agent of an air carrier, intrastate air carrier, or foreign  
8 air carrier shall be assumed by the Under Secretary.

9       “(e) SUPERVISION OF SCREENING.—All screening of  
10 passengers and property at airports under this section  
11 shall be supervised by uniformed Federal personnel of the  
12 Transportation Security Administration who shall have  
13 the power to order the dismissal of any individual per-  
14 forming such screening.

15       “(f) LIMITATION ON RIGHT TO STRIKE.—An indi-  
16 vidual that screens passengers or property, or both, at an  
17 airport under this section may not participate in a strike,  
18 or assert the right to strike, against the person (including  
19 a governmental entity) employing such individual to per-  
20 form such screening.”.

21 **SEC. 4. SECURITY PROGRAMS.**

22       Section 44903(c) is amended—

23               (1) in the first sentence of paragraph (1)—

1 (A) by striking “a law enforcement pres-  
2 ence” and inserting “a law enforcement or mili-  
3 tary presence”; and

4 (B) by inserting after “at each of those  
5 airports” the following: “and at each location at  
6 those airports where passengers are screened”;  
7 and

8 (2) in paragraph (2)(C)(i) by striking “shall  
9 issue an amendment to air carrier security programs  
10 to require” and inserting “shall require”.

11 **SEC. 5. EMPLOYMENT STANDARDS AND TRAINING.**

12 (a) EMPLOYMENT STANDARDS.—Section 44935(a) is  
13 amended—

14 (1) in the first sentence by inserting “, per-  
15 sonnel who screen passengers and property,” after  
16 “air carrier personnel”;

17 (2) by striking “and” at the end of paragraph  
18 (4);

19 (3) by striking the period at the end of para-  
20 graph (5) and inserting a semicolon; and

21 (4) by adding at the end the following:

22 “(6) a requirement that all personnel who  
23 screen passengers and property be citizens of the  
24 United States;

1           “(7) minimum compensation levels, when ap-  
2       propriate; and

3           “(8) a preference for the hiring of any indi-  
4       vidual who is a member or former member of the  
5       armed forces and who is entitled, under statute, to  
6       retired, retirement, or retainer pay on account of  
7       service as a member of the armed forces.”.

8       (b) FINAL RULES ESTABLISHING TRAINING STAND-  
9       ARDS FOR SCREENERS.—Section 44935(e)(1) is amended  
10      by striking “May 31, 2001” and inserting “6 months after  
11      the date of enactment of the Secure Transportation for  
12      America Act of 2001”.

13      (c) EMPLOYMENT STANDARDS FOR SCREENERS;  
14      UNIFORMS.—Section 44935 is amended by adding at the  
15      end the following:

16      “(g) TRAINING FOR ALL SCREENERS, SUPERVISORS,  
17      AND INSTRUCTORS.—

18           “(1) IN GENERAL.—The Under Secretary shall  
19      require any individual who screens passengers and  
20      property pursuant section 44901, and the super-  
21      visors and instructors of such individuals, to have  
22      satisfactorily completed all initial, recurrent, and ap-  
23      propriate specialized training necessary to ensure  
24      compliance with the requirements of this section.



1           “(2) ON-THE-JOB PORTION OF SCREENER’S  
2           TRAINING.—Notwithstanding paragraph (1), the  
3           Under Secretary may permit an individual, during  
4           the on-the-job portion of training, to perform secu-  
5           rity functions if the individual is closely supervised  
6           and does not make independent judgments as to  
7           whether persons or property may enter secure areas  
8           or aircraft or whether cargo may be loaded aboard  
9           aircraft without further inspection.

10           “(3) EFFECT OF SCREENER’S FAILURE OF OP-  
11           ERATION TEST.—The Under Secretary may not  
12           allow an individual to perform a screening function  
13           after the individual has failed an operational test re-  
14           lated to that function until the individual has suc-  
15           cessfully completed remedial training.

16           “(h) UNIFORMS.—The Under Secretary shall require  
17           any individual who screens passengers and property pur-  
18           suant section 44901 to be attired in a uniform, approved  
19           by the Under Secretary, while on duty.”.

20           (d) INTERIM EMPLOYMENT STANDARDS FOR  
21           SCREENING PERSONNEL.—In the period beginning 30  
22           days after the date of enactment of this Act and ending  
23           on the first date that a final rule issued by the Under  
24           Secretary of Transportation for Security under section  
25           44935(e)(1) of title 49, United States Code, takes effect,

1 the following requirements shall apply to an individual  
2 who screens passengers and property pursuant to section  
3 44901 of such title (in this subsection referred to as a  
4 “screener”):

5 (1) EDUCATION.—A screener shall have a high  
6 school diploma, a general equivalency diploma, or a  
7 combination of education and experience that the  
8 Under Secretary has determined to have equipped  
9 the individual to perform the duties of the screening  
10 position.

11 (2) BASIC APTITUDES AND PHYSICAL ABILI-  
12 TIES.—A screener shall have basic aptitudes and  
13 physical abilities (including color perception, visual  
14 and aural acuity, physical coordination, and motor  
15 skills) and shall have—

16 (A) the ability to identify the components  
17 that may constitute an explosive or an incen-  
18 diary device;

19 (B) the ability to identify objects that ap-  
20 pear to match those items described in all cur-  
21 rent regulations, security directives, and emer-  
22 gency amendments;

23 (C) for screeners operating X-ray and ex-  
24 plosives detection system equipment, the ability

1 to distinguish on the equipment monitors the  
2 appropriate images;

3 (D) for screeners operating any screening  
4 equipment, the ability to distinguish each color  
5 displayed on every type of screening equipment  
6 and explain what each color signifies;

7 (E) the ability to hear and respond to the  
8 spoken voice and to audible alarms generated  
9 by screening equipment in an active checkpoint  
10 or other screening environment;

11 (F) for screeners performing manual  
12 searches or other related operations, the ability  
13 to efficiently and thoroughly manipulate and  
14 handle such baggage, containers, cargo, and  
15 other objects subject to security processing;

16 (G) for screeners performing manual  
17 searches of cargo, the ability to use tools that  
18 allow for opening and closing boxes, crates, or  
19 other common cargo packaging;

20 (H) for screeners performing screening of  
21 cargo, the ability to stop the transfer of suspect  
22 cargo to passenger air carriers; and

23 (I) for screeners performing pat-down or  
24 hand-held metal detector searches of persons,  
25 sufficient dexterity and capability to thoroughly

1           conduct those procedures over a person’s entire  
2           body.

3           (3) COMMAND OF ENGLISH LANGUAGE.—A  
4           screener shall be able to read, speak, write, and un-  
5           derstand the English language well enough to—

6                   (A) carry out written and oral instructions  
7           regarding the proper performance of screening  
8           duties;

9                   (B) read English language identification  
10          media, credentials, airline tickets, documents,  
11          air waybills, invoices, and labels on items nor-  
12          mally encountered in the screening process;

13                  (C) provide direction to and understand  
14          and answer questions from English-speaking  
15          persons undergoing screening or submitting  
16          cargo for screening; and

17                  (D) write incident reports and statements  
18          and log entries into security records in the  
19          English language.

20   **SEC. 6. DEPLOYMENT OF FEDERAL AIR MARSHALS.**

21          (a) IN GENERAL.—Subchapter I of chapter 449 is  
22          amended by adding at the end the following:

1 **“§ 44917. Deployment of Federal air marshals**

2 “(a) IN GENERAL.—The Under Secretary of Trans-  
3 portation for Security under the authority provided by sec-  
4 tion 44903(d) shall—

5 “(1) provide for deployment of Federal air mar-  
6 shals on selected passenger flights of air carriers in  
7 air transportation or intrastate air transportation;

8 “(2) provide for appropriate background and  
9 fitness checks for candidates for appointment as  
10 Federal air marshals;

11 “(3) provide for appropriate training, super-  
12 vision, and equipment of Federal air marshals at the  
13 facility of the Federal Aviation Administration in  
14 New Jersey; and

15 “(4) require air carriers providing flights de-  
16 scribed in paragraph (1) to provide seating for a  
17 Federal air marshal on any such flight without re-  
18 gard to the availability of seats on the flight and at  
19 no cost to the United States Government or the  
20 marshal.

21 “(b) FLIGHTS IN FOREIGN AIR TRANSPORTATION.—  
22 The Under Secretary shall work with appropriate aero-  
23 nautic authorities of foreign governments under section  
24 44907 to address security concerns on passenger flights  
25 in foreign air transportation.

1       “(c) INTERIM MEASURES.—Until the Under Sec-  
 2 retary completes implementation of subsection (a), the  
 3 Under Secretary may use, after consultation with the  
 4 heads of other Federal agencies and departments, per-  
 5 sonnel from those agencies and departments, on a non-  
 6 reimbursable basis, to provide air marshal service.”.

7       (b) CONFORMING AMENDMENT.—The analysis for  
 8 chapter 449 is amended by adding after the item relating  
 9 to section 44916 the following:

“44917. Deployment of Federal air marshals.”.

10 **SEC. 7. ENHANCED SECURITY MEASURES.**

11       (a) IN GENERAL.—Subchapter I of chapter 449 is  
 12 further amended by adding at the end the following:

13 **“§ 44918. Enhanced security measures**

14       “(a) IN GENERAL.—To the extent the Under Sec-  
 15 retary of Transportation for Security determines appro-  
 16 priate, the Under Secretary shall take the following ac-  
 17 tions:

18               “(1) After consultation with the Administrator  
 19 of the Federal Aviation Administration, develop pro-  
 20 cedures and authorize equipment for pilots and other  
 21 members of the flight crew to use to defend an air-  
 22 craft against acts of criminal violence or aircraft pi-  
 23 racy.

24               “(2) After consultation with the Administrator,  
 25 develop and implement methods to—

1           “(A) restrict the opening of a cockpit door  
2           during a flight;

3           “(B) fortify cockpit doors to deny access  
4           from the cabin to the cockpit;

5           “(C) use video monitors or other devices to  
6           alert pilots in the cockpit to activity in the  
7           cabin; and

8           “(D) ensure continuous operation of an  
9           aircraft transponder in the event of an emer-  
10          gency.

11          “(3) Impose standards for the screening or in-  
12          spection of persons and vehicles having access to se-  
13          cure areas of an airport.

14          “(4) Require effective 911 emergency call capa-  
15          bility for telephones serving passenger aircraft and  
16          passenger trains.

17          “(5) Provide for the use of voice stress analysis  
18          or other technologies to prevent a person who might  
19          pose a danger to air safety or security from boarding  
20          the aircraft of an air carrier or foreign air carrier  
21          in air transportation or intrastate air transportation.

22          “(6) Develop standards and procedures for the  
23          issuance, renewal, and revocation of a certificate of  
24          qualification for individuals who screen passengers  
25          and property at an airport.

1           “(7) Provide for the use of threat image projec-  
2           tion or similar devices to test individuals described  
3           in paragraph (6) and establish procedures to revoke  
4           the certification of such individuals if the individuals  
5           fail to maintain a required level of proficiency.

6           “(8) In consultation with air carriers and other  
7           government agencies, establish policies and proce-  
8           dures requiring air carriers to use information from  
9           government agencies to identify individuals on pas-  
10          senger lists who may be a threat to civil aviation  
11          and, if such an individual is identified, to notify ap-  
12          propriate law enforcement agencies and prohibit the  
13          individual from boarding an aircraft.

14          “(9) Provide for the enhanced use of computer  
15          profiling to more effectively screen passengers and  
16          property that will be carried in the cabin of an air-  
17          craft.

18          “(10) Provide for the use of electronic tech-  
19          nology that positively verifies the identity of each  
20          employee and law enforcement officer who enters a  
21          secure area of an airport.

22          “(11) After consultation with the Adminis-  
23          trator, provide for the installation of switches in an  
24          aircraft cabin to enable flight crews to discreetly no-



1       tify the pilots in the case of a security breach occur-  
2       ring in the cabin.

3           “(12) Update training procedures used by the  
4       Federal Aviation Administration, law enforcement  
5       agencies, air carriers, and flight crews during hijack-  
6       ings to include measures relating to suicidal hijack-  
7       ers and other extremely dangerous events not cur-  
8       rently described in the training procedures.

9           “(13) Provide for background checks of individ-  
10      uals seeking instruction (including training through  
11      the use of flight simulators) in flying aircraft that  
12      has a minimum certificated takeoff weight of more  
13      than 12,500 pounds.

14          “(14) Enter into agreements with Federal,  
15      State, and local agencies under which appropriately-  
16      trained law enforcement personnel from such agen-  
17      cies, when traveling on a flight of an air carrier, will  
18      carry a firearm and be prepared to assist Federal  
19      air marshals.

20          “(15) Require more thorough background  
21      checks of persons described in subparagraphs (A),  
22      (B)(i), and (B)(ii) of section 44936(a) and para-  
23      graph (13) of this subsection, including a review of  
24      immigration records, law enforcement databases,  
25      and records of other government and international

1 agencies to help determine whether the person may  
2 be a threat to civil aviation.

3 “(b) AIRWORTHINESS OBJECTIONS BY FAA.—

4 “(1) IN GENERAL.—The Under Secretary shall  
5 not take an action under subsection (a) if the Ad-  
6 ministrator notifies the Under Secretary that the ac-  
7 tion could adversely affect the airworthiness of an  
8 aircraft.

9 “(2) REVIEW BY SECRETARY.—Notwith-  
10 standing paragraph (1), the Under Secretary may  
11 take an action under subsection (a), after receiving  
12 a notification concerning the action from the Admin-  
13 istrator under paragraph (1), if the Secretary of  
14 Transportation subsequently approves the action.

15 “(c) VIEW OF NTSB.—In taking any action under  
16 subsection (a) that could affect safety, the Under Sec-  
17 retary shall solicit and give great weight to the views of  
18 the National Transportation Safety Board.

19 “(d) PROPERTY SECURITY PROGRAM.—

20 “(1) ESTABLISHMENT.—The Under Secretary  
21 shall develop and implement a program to ensure  
22 the security of all property carried on passenger air-  
23 craft by either mandating that such property is  
24 screened, by ensuring that no checked baggage is  
25 carried on the aircraft unless the passenger who

1 checks the baggage is aboard the aircraft, or by such  
2 other methods that the Under Secretary considers to  
3 be effective.

4 “(2) USE OF SCREENING EQUIPMENT.—The  
5 Under Secretary shall ensure that equipment in-  
6 stalled at airports to screen checked baggage is used  
7 to the maximum extent possible.

8 “(e) LIMITATION ON CERTAIN ACTIONS.—The Sec-  
9 retary of Transportation shall not take any action to pre-  
10 vent a pilot of an air carrier from taking a firearm into  
11 the cockpit of the aircraft if the policy of the air carrier  
12 permits its pilots to be armed and the pilot has success-  
13 fully completed a training program for the carriage of fire-  
14 arms aboard aircraft that is acceptable to the Under Sec-  
15 retary.

16 “(f) REPORT.—Not later than 6 months after the  
17 date of enactment of this section, and annually thereafter  
18 until the Under Secretary determines whether or not to  
19 take each of the actions specified in subsection (a), the  
20 Under Secretary shall transmit to Congress a report on  
21 the progress of the Under Secretary in evaluating and tak-  
22 ing such actions, including any legislative recommenda-  
23 tions that the Under Secretary may have for enhancing  
24 transportation security, and on the progress the Under  
25 Secretary is making in carrying out subsection (d).”.

1 (b) CONFORMING AMENDMENT.—The analysis for  
 2 chapter 449 is amended by inserting after the item relat-  
 3 ing to section 44917 the following:

“44918. Enhanced security measures.”.

4 (c) REPEAL OF EXISTING REPORTING REQUIRE-  
 5 MENT.—

6 (1) IN GENERAL.—Section 44938 is amended—

7 (A) in the section heading by striking  
 8 “**REPORTS**” and inserting “**REPORT**”; and

9 (B) by striking “(a) TRANSPORTATION SE-  
 10 CURITY.—” and all that follows through “(b)  
 11 SCREENING AND FOREIGN AIR CARRIER AND  
 12 AIRPORT SECURITY.—The Administrator” and  
 13 inserting “The Under Secretary of Transpor-  
 14 tation for Security”.

15 (2) CHAPTER ANALYSIS.—The analysis for  
 16 chapter 449 is amended by striking the item relating  
 17 section 44938 and inserting the following:

“44938. Report.”.

18 **SEC. 8. CRIMINAL HISTORY RECORD CHECK FOR SCREEN-**  
 19 **ERS AND OTHERS.**

20 Section 44936(a) is amended—

21 (1) in paragraph (1)(E)(iv)(II) by striking the  
 22 period at the end and inserting “; except that at  
 23 such an airport, the airport operator, air carriers,  
 24 and certified screening companies may elect to im-

1       plement the requirements of this subparagraph in  
 2       advance of the effective date if the Under Secretary  
 3       (or the Administrator of the Federal Aviation Ad-  
 4       ministration before the transfer of civil aviation se-  
 5       curity responsibilities to the Under Secretary) ap-  
 6       proves of such early implementation and if the air-  
 7       port operator, air carriers, and certified screening  
 8       companies amend their security programs to con-  
 9       form those programs to the requirements of this  
 10      subparagraph.”; and

11           (2) in paragraph (2)—

12                (A) by striking “or airport operator” and  
 13                inserting “airport operator, or certificated  
 14                screening company”; and

15                (B) by adding at the end the following: “In  
 16                this paragraph, the term ‘certificated screening  
 17                company’ means a screening company to which  
 18                the Under Secretary has issued a screening  
 19                company certificate authorizing the screening  
 20                company to provide security screening.”.

21   **SEC. 9. PASSENGER AND BAGGAGE SCREENING FEE.**

22       (a) IN GENERAL.—Subchapter II of chapter 449 is  
 23   amended by adding at the end the following:

24   **“§ 44939. Passenger and baggage screening fee**

25       “(a) GENERAL AUTHORITY.—

1           “(1) PASSENGER FEES.—The Under Secretary  
2           of Transportation for Security shall impose a fee, on  
3           passengers of air carriers and foreign air carriers in  
4           air transportation and intrastate air transportation  
5           originating at airports in the United States, to pay  
6           for the costs of the screening of passengers and  
7           property pursuant to section 44901(d). Such costs  
8           shall be limited to the salaries and benefits of  
9           screening personnel and their direct supervisors,  
10          training of screening personnel, and acquisition, op-  
11          eration, and maintenance of equipment used by  
12          screening personnel and shall be determined by the  
13          Under Secretary.

14          “(2) AIR CARRIER FEES.—

15                 “(A) AUTHORITY.—In addition to the fee  
16                 imposed pursuant to paragraph (1), and only to  
17                 the extent that such fee is insufficient to pay  
18                 for the costs of the screening of passengers and  
19                 property pursuant to section 44901(d), the  
20                 Under Secretary may impose a fee on air car-  
21                 riers to pay for the difference between any such  
22                 costs and the amount collected from such fee.

23                 “(B) LIMITATION.—The amounts of fees  
24                 collected under this paragraph may not exceed,  
25                 in the aggregate, the amounts paid in calendar

1           year 2000 by air carriers for screening activities  
2           described in paragraph (1) as determined by  
3           the Under Secretary.

4           “(b) SCHEDULE OF FEES.—In imposing fees under  
5   subsection (a), the Under Secretary shall ensure that the  
6   fees are reasonably related to the Transportation Security  
7   Administration’s costs of providing services rendered.

8           “(c) LIMITATION ON FEE.—Fees imposed under sub-  
9   section (a)(1) may not exceed \$2.50 on a 1-way trip in  
10   air transportation or intrastate air transportation that  
11   originates at an airport in the United States.

12          “(d) IMPOSITION OF FEE.—

13               “(1) IN GENERAL.—Notwithstanding section  
14   9701 of title 31 and the procedural requirements of  
15   section 553 of title 5, the Under Secretary shall im-  
16   pose the fee under subsection (a)(1), and may im-  
17   pose a fee under subsection (a)(2), through the pub-  
18   lication of notice of such fee in the Federal Register  
19   and begin collection of the fee within 60 days of the  
20   date of enactment of this Act, or as soon as possible  
21   thereafter.

22               “(2) SUBSEQUENT MODIFICATION OF FEE.—  
23   After imposing a fee in accordance with paragraph  
24   (1), the Under Secretary may modify, from time to  
25   time through publication of notice in the Federal

1 Register, the imposition or collection of such fee, or  
2 both.

3 “(3) LIMITATION ON COLLECTION.—No fee  
4 may be collected under this section, except to the ex-  
5 tent that expenditure of such fee to pay the costs of  
6 activities and services for which the fee is imposed  
7 is provided for in advance in an appropriations Act.

8 “(e) ADMINISTRATION OF FEES.—

9 “(1) FEES PAYABLE TO UNDER SECRETARY.—  
10 All fees imposed and amounts collected under this  
11 section are payable to the Under Secretary.

12 “(2) FEES COLLECTED BY AIR CARRIER.—A fee  
13 imposed under subsection (a)(1) shall be collected by  
14 the air carrier or foreign air carrier providing the  
15 transportation described in subsection (a)(1).

16 “(3) DUE DATE FOR REMITTANCE.—A fee col-  
17 lected under this section shall be remitted on the  
18 last day of each calendar month by the carrier col-  
19 lecting the fee. The amount to be remitted shall be  
20 for the calendar month preceding the calendar  
21 month in which the remittance is made.

22 “(4) INFORMATION.—The Under Secretary may  
23 require the provision of such information as the  
24 Under Secretary decides is necessary to verify that



1 fees have been collected and remitted at the proper  
 2 times and in the proper amounts.

3 “(f) RECEIPTS CREDITED AS OFFSETTING COLLEC-  
 4 TIONS.—Notwithstanding section 3302 of title 31, any fee  
 5 collected under this section—

6 “(1) shall be credited as offsetting collections to  
 7 the account that finances the activities and services  
 8 for which the fee is imposed;

9 “(2) shall be available for expenditure only to  
 10 pay the costs of activities and services for which the  
 11 fee is imposed; and

12 “(3) shall remain available until expended.

13 “(g) REFUNDS.—The Under Secretary may refund  
 14 any fee paid by mistake or any amount paid in excess of  
 15 that required.”.

16 (b) CONFORMING AMENDMENT.—The analysis for  
 17 chapter 449 is amended by adding after the item relating  
 18 to section 44938 the following:

“44939. Passenger and baggage screening fee.”.

19 (c) EXEMPTIONS.—Section 44915 is amended by  
 20 striking “and 44936” and inserting “44936, and 44939”.

21 **SEC. 10. AUTHORIZATIONS OF APPROPRIATIONS.**

22 (a) IN GENERAL.—Subchapter II of chapter 449 is  
 23 further amended by adding at the end the following:

1 **“§ 44940. Authorizations of appropriations**

2       “(a) OPERATIONS OF TRANSPORTATION SECURITY  
3 ADMINISTRATION.—There are authorized to be appro-  
4 priated such sums as may be necessary for the operations  
5 of the Transportation Security Administration, including  
6 the functions of the Administration under section  
7 44901(d) if the fees imposed under section 44939 are in-  
8 sufficient to cover the costs of such functions.

9       “(b) GRANTS FOR AIRCRAFT SECURITY.—There is  
10 authorized to be appropriated \$500,000,000 for the Sec-  
11 retary of Transportation to make grants to air carriers  
12 to—

13               “(1) fortify cockpit doors to deny access from  
14 the cabin to the pilots in the cockpit;

15               “(2) provide for the use of video monitors or  
16 other devices to alert the cockpit crew to activity in  
17 the passenger cabin;

18               “(3) ensure continuous operation of the aircraft  
19 transponder in the event the crew faces an emer-  
20 gency; and

21               “(4) provide for the use of other innovative  
22 technologies to enhance aircraft security.

23       “(c) AIRPORT SECURITY.—There is authorized to be  
24 appropriated \$1,500,000,000 for fiscal year 2002 to the  
25 Secretary to reimburse airport operators for direct costs  
26 that such operators incurred to comply with new, addi-

1 tional, or revised security requirements imposed on airport  
 2 operators by the Federal Aviation Administration on or  
 3 after September 11, 2001. Such sums shall remain avail-  
 4 able until expended.”.

5 (b) CONFORMING AMENDMENT.—The analysis for  
 6 chapter 449 is amended by adding after the item relating  
 7 to section 44939 the following:

“44940. Authorizations of appropriations.”.

8 **SEC. 11. LIMITATION ON LIABILITY FOR ACTS TO THWART**  
 9 **CRIMINAL VIOLENCE OR AIRCRAFT PIRACY.**

10 Section 44903 is amended by adding at the end the  
 11 following:

12 “(h) LIMITATION ON LIABILITY FOR ACTS TO  
 13 THWART CRIMINAL VIOLENCE OR AIRCRAFT PIRACY.—  
 14 An individual shall not be liable for damages in any action  
 15 brought in a Federal or State court arising out of the acts  
 16 of the individual in attempting to thwart an act of criminal  
 17 violence or piracy on an aircraft if that individual in good  
 18 faith believed that such an act of criminal violence or pi-  
 19 racy was occurring or was about to occur.”.

20 **SEC. 12. PASSENGER MANIFESTS.**

21 Section 44909 is amended by adding at the end the  
 22 following:

23 “(c) FLIGHTS IN FOREIGN AIR TRANSPORTATION TO  
 24 THE UNITED STATES.—

1           “(1) IN GENERAL.—Not later than 60 days  
2           after the date of enactment of this subsection, the  
3           Under Secretary of Transportation for Security shall  
4           require each air carrier and foreign air carrier oper-  
5           ating a passenger flight in foreign air transportation  
6           to the United States to provide to the Under Sec-  
7           retary by electronic transmission a passenger and  
8           crew manifest containing the information specified  
9           in subsection (b).

10           “(2) INFORMATION.—A passenger and crew  
11           manifest for a flight required under paragraph (1)  
12           shall contain the following information:

13                   “(A) The full name of each passenger and  
14                   crew member.

15                   “(B) The date of birth and citizenship of  
16                   each passenger and crew member.

17                   “(C) The sex of each passenger and crew  
18                   member.

19                   “(D) The passport number and country of  
20                   issuance of each passenger and crew member if  
21                   required for travel.

22                   “(E) The United States visa number or  
23                   resident alien card number of each passenger  
24                   and crew member, as applicable.

1           “(F) The passenger name record of each  
2           passenger.

3           “(G) Such other information as the Under  
4           Secretary, by regulation, determines is reason-  
5           ably necessary to ensure aviation safety.

6           “(3) TRANSMISSION OF MANIFEST.—Subject to  
7           paragraph (4), a passenger and crew manifest re-  
8           quired for a flight under paragraph (1) shall be  
9           transmitted to the Under Secretary in advance of  
10          the aircraft landing in the United States in such  
11          manner, time, and form as the Under Secretary pre-  
12          scribes.

13          “(4) TRANSMISSION OF MANIFESTS TO OTHER  
14          FEDERAL AGENCIES.—The Under Secretary may re-  
15          quire by regulation that a passenger and crew mani-  
16          fest required for a flight under paragraph (1) be  
17          transmitted directly to the head of another Federal  
18          agency.”.

19 **SEC. 13. TRANSPORTATION SECURITY OVERSIGHT BOARD.**

20          (a) IN GENERAL.—Chapter 449 is amended by add-  
21          ing at the end the following:

1           “SUBCHAPTER III—TRANSPORTATION  
2                       SECURITY OVERSIGHT BOARD

3   **“§ 44951. Transportation Security Oversight Board**

4           “(a) IN GENERAL.—There is established a board to  
5 be known as a ‘Transportation Security Oversight Board’.

6           “(b) MEMBERSHIP.—

7                       “(1) NUMBER AND APPOINTMENT.—The Board  
8 shall be composed of 5 members as follows:

9                               “(A) The Secretary of Transportation (or  
10 the Secretary’s designee).

11                              “(B) The Attorney General (or the Attor-  
12 ney General’s designee).

13                              “(C) The Secretary of the Treasury (or the  
14 Secretary’s designee).

15                              “(D) The Secretary of Defense (or the  
16 Secretary’s designee).

17                              “(E) One member appointed by the Presi-  
18 dent to represent the National Security Council  
19 or the Office of Homeland Security.

20                       “(2) CHAIRPERSON.—The Chairperson of the  
21 Board shall be the Secretary of Transportation.

22           “(c) DUTIES.—The Board shall—

23                       “(1) review and ratify or disapprove any regula-  
24 tion or security directive issued by the Under Sec-  
25 retary of Transportation for security under section

1 114(h)(2) within 30 days after the date of issuance  
2 of such regulation or directive;

3 “(2) share intelligence information with the  
4 Under Secretary;

5 “(3) review—

6 “(A) plans for transportation security;

7 “(B) standards established for perform-  
8 ance of airport security screening personnel;

9 “(C) compensation being paid to airport  
10 security screening personnel;

11 “(D) procurement of security equipment;

12 “(E) selection, performance, and com-  
13 pensation of senior executives in the Transpor-  
14 tation Security Administration;

15 “(F) waivers granted by the Under Sec-  
16 retary under section 21 of the Secure Transpor-  
17 tation for America Act of 2001 and may ratify  
18 or disapprove such waivers; and

19 “(G) budget requests of the Under Sec-  
20 retary; and

21 “(4) make recommendations to the Under Sec-  
22 retary regarding matters reviewed under paragraph  
23 (3).

24 “(d) QUARTERLY MEETINGS.—The Board shall meet  
25 at least quarterly.

1       “(e) CONSIDERATION OF SECURITY INFORMATION.—  
2 A majority of the Board may vote to close a meeting of  
3 the Board to the public when classified, sensitive security  
4 information, or information protected in accordance with  
5 section 40119(b), will be discussed.

6       **“§ 44952. Advisory council**

7       “(a) ESTABLISHMENT.—The Under Secretary of  
8 Transportation for Security shall establish an advisory  
9 council to be known as the ‘Transportation Security Advi-  
10 sory Council’.

11       “(b) MEMBERSHIP.—The Council shall be composed  
12 of members appointed by the Under Secretary to represent  
13 all modes of transportation, transportation labor, screen-  
14 ing companies, organizations representing families of vic-  
15 tims of transportation disasters, and other entities af-  
16 fected or involved in the transportation security process.

17       “(c) DUTIES.—The Council shall provide advice and  
18 counsel to the Under Secretary on issues which affect or  
19 are affected by the operations of the Transportation Secu-  
20 rity Administration. The Council shall function as a re-  
21 source for management, policy, spending, and regulatory  
22 matters under the jurisdiction of the Transportation Secu-  
23 rity Administration.

24       “(d) ADMINISTRATIVE MATTERS.—



1           “(1) MEETINGS.—The Council shall meet on a  
2           regular and periodic basis or at the call of the Chair-  
3           person or the Under Secretary.

4           “(2) ACCESS TO DOCUMENTS AND STAFF.—The  
5           Under Secretary may give the Council appropriate  
6           access to relevant documents and personnel of the  
7           Administration, and the Under Secretary shall make  
8           available, consistent with the authority to withhold  
9           commercial and other proprietary information under  
10          section 552 of title 5 (commonly known as the  
11          ‘Freedom of Information Act’), cost data associated  
12          with the acquisition and operation of security screen-  
13          ing equipment. Any member of the Council who re-  
14          ceives commercial or other proprietary data from the  
15          Under Secretary shall be subject to the provisions of  
16          section 1905 of title 18, pertaining to unauthorized  
17          disclosure of such information.

18          “(3) CHAIRPERSON AND VICE CHAIRPERSON.—  
19          The Council shall elect a Chairperson and a Vice  
20          Chairperson from among the members, each of  
21          whom shall serve for a term of 2 years. The Vice  
22          Chairperson shall perform the duties of the Chair-  
23          person in the absence of the Chairperson.

24          “(4) TRAVEL AND PER DIEM.—Each member of  
25          the Council shall be paid actual travel expenses, and

1 per diem in lieu of subsistence expenses when away  
 2 from his or her usual place of residence, in accord-  
 3 ance with section 5703 of title 5.

4 “(5) DETAIL OF PERSONNEL FROM THE ADMIN-  
 5 ISTRATION.—The Under Secretary shall make avail-  
 6 able to the Council such staff, information, and ad-  
 7 ministrative services and assistance as may reason-  
 8 ably be required to enable the Council to carry out  
 9 its responsibilities under this section.

10 “(e) FEDERAL ADVISORY COMMITTEE ACT NOT TO  
 11 APPLY.—The Federal Advisory Committee Act (5 U.S.C.  
 12 App.) does not apply to the Council.”.

13 (b) CONFORMING AMENDMENT.—The analysis for  
 14 chapter 449 is amended by adding at the end the fol-  
 15 lowing:

16 “SUBCHAPTER III—TRANSPORTATION SECURITY  
 17 OVERSIGHT BOARD

“44951. Transportation Security Oversight Board.

“44952. Advisory council.”.

18 **SEC. 14. AIRPORT IMPROVEMENT PROGRAMS.**

19 (a) COMPETITION PLAN.—Section 47106(f) is  
 20 amended—

21 (1) by redesignating paragraph (3) as para-  
 22 graph (4); and

23 (2) by inserting after paragraph (2) the fol-  
 24 lowing:

1           “(3) SPECIAL RULE FOR FISCAL YEAR 2002.—

2           This subsection does not apply to any passenger fa-  
3           cility fee approved, or grant made, in fiscal year  
4           2002 if the fee or grant is to be used to improve se-  
5           curity at a covered airport.”.

6           (b) AIRPORT DEVELOPMENT DEFINED.—Section  
7           47102(3) is amended by adding at the end the following:

8                   “(J) hiring, training, compensating, or re-  
9                   imbursement for law enforcement personnel at  
10                  a non-hub or small hub airport (as defined in  
11                  section 41731).

12                  “(K) in fiscal year 2002, any activity, in-  
13                  cluding operational activities, of an airport that  
14                  is not a primary airport if that airport is lo-  
15                  cated within the confines of enhanced class B  
16                  airspace, as defined by Notice to Airmen FDC  
17                  1/0618 issued by the Federal Aviation Adminis-  
18                  tration.

19                  “(L) in fiscal year 2002, payments for  
20                  debt service on indebtedness incurred to carry  
21                  out a project at an airport owned or controlled  
22                  by the sponsor if the Secretary determines that  
23                  such payments are necessary to prevent a de-  
24                  fault on the indebtedness.”.

1 (c) REIMBURSEMENT FOR PAST EXPENSES.—Sec-  
 2 tion 47110(b)(2) is amended—

3 (1) by striking “or” at the end of subparagraph  
 4 (B);

5 (2) by inserting after the semicolon at the end  
 6 of the subparagraph (C)(iii) “or”; and

7 (3) by inserting at the end the following:

8 “(D) if the cost is incurred after September 11,  
 9 2001, for a project described in subparagraphs (J),  
 10 (K), or (L) of section 47102(3) without regard to  
 11 the date of execution of a grant agreement under  
 12 this subchapter.”.

13 (d) FEDERAL SHARE.—Section 47109(a) is  
 14 amended—

15 (1) by striking “and” at the end of paragraph  
 16 (3);

17 (2) by striking the period at the end of para-  
 18 graph (4) and inserting “; and”; and

19 (3) by adding at the end the following:

20 “(5) 100 percent for a project described in sub-  
 21 paragraphs (J), (K), or (L) of section 47102(3).”.

22 (e) CONFORMING AMENDMENT TO AIRPORT AND  
 23 AIRWAY TRUST FUND.—Section 9502(d)(1)(A) of the In-  
 24 ternal Revenue Code of 1986 (relating to airport and air-  
 25 way program) is amended by inserting “or the Secure

1 Transportation for America Act of 2001” after “21st Cen-  
2 tury”.

3 **SEC. 15. TECHNICAL CORRECTIONS.**

4 (a) REPORT DEADLINE.—Section 106(a) of the Air  
5 Transportation Safety and System Stabilization Act (P.L.  
6 107–42) is amended by striking “February 1, 2001” and  
7 inserting “February 1, 2002”.

8 (b) INSURANCE AND REINSURANCE OF AIRCRAFT.—  
9 Section 44306(c) (as redesignated by section 201(d) of  
10 such Act) is amended by inserting “in the interest of air  
11 commerce or national security” before “to carry out for-  
12 eign policy”.

13 (c) FEDERAL CREDIT INSTRUMENTS.—Section  
14 102(c)(2)(A) of such Act is amended by striking “rep-  
15 resentatives” and inserting “representations”.

16 **SEC. 16. ALCOHOL AND CONTROLLED SUBSTANCE TEST-**  
17 **ING.**

18 Chapter 451 is amended—

19 (1) by striking “contract personnel” each place  
20 it appears and inserting “personnel”;

21 (2) by striking “contract employee” each place  
22 it appears and inserting “employee”;

23 (3) in section 45106(c) by striking “contract  
24 employees” and inserting “employees”;

1           (4) by inserting after section 45106 the fol-  
2       lowing:

3   **“§ 45107. Transportation Security Administration**

4       “(a) TRANSFER OF FUNCTIONS RELATING TO TEST-  
5   ING PROGRAMS WITH RESPECT TO AIRPORT SECURITY  
6   SCREENING PERSONNEL.—The authority of the Adminis-  
7   trator of the Federal Aviation Administration under this  
8   chapter with respect to programs relating to testing of air-  
9   port security screening personnel are transferred to the  
10   Under Secretary of Transportation for Security. Notwith-  
11   standing section 45102(a), the regulations prescribed  
12   under section 45102(a) shall require testing of such per-  
13   sonnel by their employers instead of by air carriers and  
14   foreign air carriers.

15       “(b) APPLICABILITY OF CHAPTER WITH RESPECT TO  
16   EMPLOYEES OF ADMINISTRATION.—The provisions of this  
17   chapter that apply with respect to employees of the Fed-  
18   eral Aviation Administration whose duties include respon-  
19   sibility for safety-sensitive functions shall apply with re-  
20   spect to employees of the Transportation Security Admin-  
21   istration whose duties include responsibility for security-  
22   sensitive functions. The Under Secretary of Transpor-  
23   tation for Security, the Transportation Security Adminis-  
24   tration, and employees of the Transportation Security Ad-  
25   ministration whose duties include responsibility for secu-

1 rity-sensitive functions shall be subject to and comply with  
 2 such provisions in the same manner and to the same ex-  
 3 tent as the Administrator of the Federal Aviation Admin-  
 4 istration, the Federal Aviation Administration, and em-  
 5 ployees of the Federal Aviation Administration whose du-  
 6 ties include responsibility for safety-sensitive functions, re-  
 7 spectively.”; and

8 (5) in the analysis for such chapter by inserting  
 9 after the item relating to section 45106 the fol-  
 10 lowing:

“45107. Transportation Security Administration”.

11 **SEC. 17. CONFORMING AMENDMENTS TO SUBTITLE VII.**

12 (a) RECORDS OF EMPLOYMENT OF PILOT APPLI-  
 13 CANTS.—Part A of subtitle VII is amended—

14 (1) by moving subsections (f), (g), and (h) of  
 15 section 44936 from section 44936, inserting them at  
 16 the end of section 44703, and redesignating them as  
 17 subsections (h), (i), and (j), respectively; and

18 (2) in subsections (i) and (j) of section 44703  
 19 (as moved to the end of section 44703 by paragraph  
 20 (1) of this subsection), by striking “subsection (f)”  
 21 each place it appears and inserting “subsection (h)”.

22 (b) INVESTIGATIONS AND PROCEDURES.—Chapter  
 23 461 is amended—

24 (1) in each of sections 46101(a)(1), 46102(a),  
 25 46103(a), 46104(a), 46105(a), 46106, 46107(b),

1 and 46110(a) by inserting after “(or” the following:  
2 “the Under Secretary of Transportation for Security  
3 with respect to security duties and powers des-  
4 ignated to be carried out by the Under Secretary  
5 or”;

6 (2) by striking “or Administrator” each place it  
7 appears and inserting “, Under Secretary, or Ad-  
8 ministrator”;

9 (3) in section 46101(a)(2) by striking “of  
10 Transportation or the” and inserting “, Under Sec-  
11 retary, or”;

12 (4) in section 46102(b) by striking “and the  
13 Administrator” and inserting “, the Under Sec-  
14 retary, and the Administrator”;

15 (5) in section 46102(c) by striking “and Ad-  
16 ministrator” each place it appears and inserting “,  
17 Under Secretary, and Administrator”;

18 (6) in each of sections 46102(d) and 46104(b)  
19 by inserting “the Under Secretary,” after “Sec-  
20 retary,”;

21 (7) in the heading to section 46106 by striking  
22 **“Secretary of Transportation and Admin-**  
23 **istrator of the Federal Aviation Adminis-**  
24 **tration”** and inserting **“Department of**  
25 **Transportation”**; and



1           (8) in the item relating to section 46106 of the  
2           analysis for such chapter by striking “Secretary of  
3           Transportation and Administrator of the Federal  
4           Aviation Administration” and inserting “Depart-  
5           ment of Transportation”.

6           (c) ADMINISTRATIVE.—Section 40113 is amended—

7           (1) in subsection (a)—

8           (A) by inserting after “(or” the following:  
9           “the Under Secretary of Transportation for Se-  
10          curity with respect to security duties and pow-  
11          ers designated to be carried out by the Under  
12          Secretary or”; and

13          (B) by striking “or Administrator” and in-  
14          serting “, Under Secretary, or Administrator”;  
15          and

16          (2) in subsection (d)—

17          (A) by inserting after “The” the following:  
18          “Under Secretary of Transportation for Secu-  
19          rity or the”;

20          (B) by striking “Administration” the sec-  
21          ond place it appears and inserting “Transpor-  
22          tation Security Administration or Federal Avia-  
23          tion Administration, as the case may be,”; and

1 (C) by striking “the Administrator de-  
 2 cides” and inserting “the Under Secretary or  
 3 Administrator, as the case may be, decides”.

4 (d) PENALTIES.—Chapter 463 is amended—

5 (1) in section 46301(d)(2)—

6 (A) by striking “, chapter 449 (except sec-  
 7 tions 44902, 44903(d), 44907(a)–(d)(1)(A) and  
 8 (d)(1)(C)–(f), 44908, and 44909),”;

9 (B) by inserting after the first sentence  
 10 the following: “The Under Secretary of Trans-  
 11 portation for Security may impose a civil pen-  
 12 alty for a violation of chapter 449 (except sec-  
 13 tions 44902, 44903(d), 44907(a)–(d)(1)(A),  
 14 44907(d)(1)(C)–(f), 44908, and 44909) or a  
 15 regulation prescribed or order issued under  
 16 such chapter 449.”; and

17 (C) by inserting “Under Secretary or” be-  
 18 fore “Administrator shall”;

19 (2) in each of paragraphs (3) and (4) of section  
 20 46301(d) by striking “Administrator” each place it  
 21 appears and inserting “Under Secretary or Adminis-  
 22 trator”;

23 (3) in section 46301(d)(8) by striking “Admin-  
 24 istrator” and inserting “Under Secretary, Adminis-  
 25 trator,”;

1           (4) in section 46301(h)(2) by inserting after  
2           “(or” the following: “the Under Secretary of Trans-  
3           portation for Security with respect to security duties  
4           and powers designated to be carried out by the  
5           Under Secretary or”;

6           (5) in section 46303(c)(2) by inserting “or the  
7           Under Secretary of Transportation for Security”  
8           after “Federal Aviation Administration”;

9           (6) in section 46311—

10           (A) by inserting after “Transportation,”  
11           the following: “the Under Secretary of Trans-  
12           portation for Security with respect to security  
13           duties and powers designated to be carried out  
14           by the Under Secretary,”;

15           (B) by inserting after “Secretary,” each  
16           place it appears the following: “Under Sec-  
17           retary,”; and

18           (C) by striking “or Administrator” each  
19           place it appears and inserting “, Under Sec-  
20           retary, or Administrator”;

21           (7) in each of sections 46313 and 46316 by in-  
22           serting after “(or” the following: “the Under Sec-  
23           retary of Transportation for Security with respect to  
24           security duties and powers designated to be carried  
25           out by the Under Secretary or”; and

1           (8) in section 46505(d)(2) by inserting “or the  
2       Under Secretary of Transportation for Security”  
3       after “Federal Aviation Administration”.

4   **SEC. 18. SAVINGS PROVISION.**

5       (a) **TRANSFER OF ASSETS AND PERSONNEL.**—Ex-  
6   cept as otherwise provided in this Act, those personnel,  
7   property, and records employed, used, held, available, or  
8   to be made available in connection with a function trans-  
9   ferred to the Transportation Security Administration by  
10  this Act shall be transferred to the Transportation Secu-  
11  rity Administration for use in connection with the func-  
12  tions transferred. Unexpended balances of appropriations,  
13  allocations, and other funds made available to the Federal  
14  Aviation Administration to carry out such functions shall  
15  also be transferred to the Transportation Security Admin-  
16  istration for use in connection with the functions trans-  
17  ferred.

18       (b) **LEGAL DOCUMENTS.**—All orders, determinations,  
19  rules, regulations, permits, grants, loans, contracts, settle-  
20  ments, agreements, certificates, licenses, and privileges—

21           (1) that have been issued, made, granted, or al-  
22       lowed to become effective by the Federal Aviation  
23       Administration, any officer or employee thereof, or  
24       any other Government official, or by a court of com-

1       petent jurisdiction, in the performance of any func-  
2       tion that is transferred by this Act; and

3           (2) that are in effect on the effective date of  
4       such transfer (or become effective after such date  
5       pursuant to their terms as in effect on such effective  
6       date), shall continue in effect according to their  
7       terms until modified, terminated, superseded, set  
8       aside, or revoked in accordance with law by the  
9       Under Secretary of Transportation for Security, any  
10      other authorized official, a court of competent juris-  
11      diction, or operation of law.

12      (c) PROCEEDINGS.—

13           (1) IN GENERAL.—The provisions of this Act  
14      shall not affect any proceedings or any application  
15      for any license pending before the Federal Aviation  
16      Administration at the time this Act takes effect, in-  
17      sofar as those functions are transferred by this Act;  
18      but such proceedings and applications, to the extent  
19      that they relate to functions so transferred, shall be  
20      continued. Orders shall be issued in such pro-  
21      ceedings, appeals shall be taken therefrom, and pay-  
22      ments shall be made pursuant to such orders, as if  
23      this Act had not been enacted; and orders issued in  
24      any such proceedings shall continue in effect until  
25      modified, terminated, superseded, or revoked by a

1       duly authorized official, by a court of competent ju-  
2       risdiction, or by operation of law.

3           (2) STATUTORY CONSTRUCTION.—Nothing in  
4       this subsection shall be deemed to prohibit the dis-  
5       continuance or modification of any proceeding de-  
6       scribed in paragraph (1) under the same terms and  
7       conditions and to the same extent that such pro-  
8       ceeding could have been discontinued or modified if  
9       this Act had not been enacted.

10          (3) ORDERLY TRANSFER.—The Secretary of  
11       Transportation is authorized to provide for the or-  
12       derly transfer of pending proceedings from the Fed-  
13       eral Aviation Administration.

14       (d) SUITS.—

15          (1) IN GENERAL.—This Act shall not affect  
16       suits commenced before the date of the enactment of  
17       this Act, except as provided in paragraphs (2) and  
18       (3). In all such suits, proceeding shall be had, ap-  
19       peals taken, and judgments rendered in the same  
20       manner and with the same effect as if this Act had  
21       not been enacted.

22          (2) SUITS BY OR AGAINST FAA.—Any suit by or  
23       against the Federal Aviation Administration begun  
24       before the date of enactment of this Act shall be  
25       continued, insofar as it involves a function retained

1       and transferred under this Act, with the Transpor-  
2       tation Security Administration (to the extent the  
3       suit involves functions transferred to the Transpor-  
4       tation Security Administration under this Act) sub-  
5       stituted for the Federal Aviation Administration.

6           (3) REMANDED CASES.—If the court in a suit  
7       described in paragraph (1) remands a case to the  
8       Transportation Security Administration, subsequent  
9       proceedings related to such case shall proceed in ac-  
10      cordance with applicable law and regulations as in  
11      effect at the time of such subsequent proceedings.

12       (e) CONTINUANCE OF ACTIONS AGAINST OFFI-  
13      CERS.—No suit, action, or other proceeding commenced  
14      by or against any officer in his official capacity as an offi-  
15      cer of the Federal Aviation Administration shall abate by  
16      reason of the enactment of this Act. No cause of action  
17      by or against the Federal Aviation Administration, or by  
18      or against any officer thereof in his official capacity, shall  
19      abate by reason of the enactment of this Act.

20       (f) EXERCISE OF AUTHORITIES.—Except as other-  
21      wise provided by law, an officer or employee of the Trans-  
22      portation Security Administration may, for purposes of  
23      performing a function transferred by this Act or the  
24      amendments made by this Act, exercise all authorities  
25      under any other provision of law that were available with

1 respect to the performance of that function to the official  
2 responsible for the performance of the function imme-  
3 diately before the effective date of the transfer of the func-  
4 tion under this Act.

5 (g) ACT DEFINED.—In this section, the term “Act”  
6 includes the amendments made by this Act.

7 **SEC. 19. BUDGET SUBMISSIONS.**

8 The President’s budget submission for fiscal year  
9 2003 and each fiscal year thereafter shall reflect the estab-  
10 lishment of the Transportation Security Administration.

11 **SEC. 20. AIRCRAFT OPERATIONS IN ENHANCED CLASS B**  
12 **AIRSPACE.**

13 Notice to Airmen FDC 1/0618 issued by the Federal  
14 Aviation Administration, and any other regulation, order,  
15 or directive that restricts the ability of United States reg-  
16 istered aircraft to conduct operations under part 91 of  
17 title 14, Code of Federal Regulations, in enhanced class  
18 B airspace (as defined by such Notice), shall cease to be  
19 in effect beginning on the 10th day following the date of  
20 enactment of this Act, unless the Secretary of Transpor-  
21 tation publishes a notice in the Federal Register before  
22 such 10th day reimposing the restriction and explaining  
23 the reasons for the restriction.



1 **SEC. 21. WAIVERS FOR CERTAIN ISOLATED COMMUNITIES.**

2 (a) IN GENERAL.—In any case in which a restriction  
3 is imposed on an air carrier (as defined in section 40102  
4 of title 49, United States Code) for reasons of national  
5 security by any government agency, the Under Secretary  
6 of Transportation for Security may grant a waiver from  
7 such restrictions for the carriage of cargo, mail, patients,  
8 and emergency medical supplies (and associated per-  
9 sonnel) on flights to or from a community that is not ac-  
10 cessible by road, or that is more than 200 miles, from a  
11 hub airport (as defined in section 41731 of such title).

12 (b) REVIEW AND DISAPPROVAL.—Any grant of a  
13 waiver by the Under Secretary under this section shall be  
14 subject to review and disapproval by the Transportation  
15 Security Oversight Board.

16 (c) LIMITATIONS.—The Board may impose reason-  
17 able limitations on any waiver granted under this section.

18 **SEC. 22. ASSESSMENTS OF THREATS TO AIRPORTS.**

19 Section 44904 is amended by adding at the end the  
20 following:

21 “(d) PASSENGER VEHICLES.—

22 “(1) THREAT ASSESSMENT.—An operator of an  
23 airport with scheduled passenger service, in con-  
24 sultation with appropriate State or local law enforce-  
25 ment authorities, may conduct a threat assessment  
26 of the airport to determine whether passenger vehi-

1       cles should be permitted to park within 300 feet of  
2       the airport terminal building.

3               “(2) REMOVAL OF CERTAIN RESTRICTIONS.—If  
4       the airport operator, after consultation with the ap-  
5       propriate State or local law enforcement authorities,  
6       determines that safeguards are in place to suffi-  
7       ciently protect public safety and so certifies, in writ-  
8       ing, to the Secretary of Transportation, any rule,  
9       order, or other directive of the Secretary prohibiting  
10      the parking of passenger vehicles within 300 feet of  
11      an airport terminal building shall not apply to the  
12      terminal building at such airport.”.

○